

AMENDED IN SENATE APRIL 17, 2001

SENATE BILL

No. 587

Introduced by Senator Soto

February 22, 2001

An act to add Sections 1262.5 and 1367.5 to the Health and Safety Code, and to add Sections 10117.5 and 10233.25 to the Insurance Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 587, as amended, Soto. Health facilities: critically or terminally ill patients: transfers.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. A violation of these provisions is subject to criminal sanction.

This bill would require, whenever it is necessary for any general acute care hospital to release a critically ill or terminally ill patient to any facility or home, other than the patient's place of residence, for purposes of that patient receiving any further medical care and services, the general acute care hospital to provide to the patient, and ~~relative's~~ *relatives* of the patient as provided by the bill, a specified written patient care summary prior to the patient's discharge from the general acute care hospital.

The bill would require a general acute care hospital to adopt a protocol for the preparation of the patient care summary and the explanation of the summary to the patient and, *as designated by the patient*, to the patient's family. The bill would require utilization reviews of discharge criteria to assure that these patients are moved to a facility or home with the capacity to provide the appropriate level of

care to reduce the necessity of frequent emergency visits to the hospital to alleviate life-threatening conditions.

The bill would prohibit a health facility from accepting the transfer from a general acute care hospital of a critically or terminally ill patient for whom the facility is ill-equipped to provide appropriate medical care.

The Knox-Keene Health Care Service Plan Act of 1975 provides for the regulation and licensing of health care service plans by the Department of Managed Health Care and makes the willful violation of any of its provisions a crime. Existing law also provides for the regulation of policies of disability insurance and long-term care policies and certificates by the Insurance Commissioner.

This bill would prohibit any health care service plan contract, certain disability insurer contracts, and any long-term care policies or certificates that are issued, amended, renewed, or delivered on and after January 1, 2002, from containing a provision that prohibits or restricts any health facilities' compliance with the requirements of the bill.

Because the bill would impose additional requirements on health care service plans and health facilities, violations of which constitute a criminal offense, it would expand the scope of an existing crime, thereby creating a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1262.5 is added to the Health and Safety
- 2 Code, to read:
- 3 1262.5. (a) (1) Whenever it is necessary for any general
- 4 acute care hospital to release a critically ill or terminally ill patient
- 5 to any facility or home, other than the patient's place of residence,
- 6 for purposes of that patient receiving any further medical care and
- 7 services, the general acute care hospital shall provide to the patient
- 8 and as designated by the patient, the patient's spouse and any



1 relative designated by the patient, a written patient care summary
2 prior to the patient's discharge from the general acute care hospital.

3 (2) The patient shall have the right to request that the care
4 summary be explained to the patient and, if designated by the
5 patient, the patient's spouse and any relative designated by the
6 patient.

7 (3) The patient care summary shall include, to the extent
8 known, all of the following components:

9 (A) The nature of any illness or condition determined to be
10 critical or terminal.

11 (B) Medications prescribed by the general acute hospital,
12 including side effects and dosage schedules.

13 (C) Expected symptoms and any anticipated deterioration of
14 critical or terminal conditions and general health. This information
15 shall include an identification of symptoms or conditions that will
16 predictably result in emergency visits to the hospital because the
17 facility would not be expected to effectively treat the
18 life-threatening condition.

19 (D) Disclosure and an explanation of the patient's right to a
20 pain assessment pursuant to Section 1254.7.

21 (E) Recommended continuing treatment plan upon release to
22 the facility or home that is to provide medical care and services to
23 treat and manage the patient's critical or terminal conditions. The
24 recommendation shall address pain management.

25 (F) An explanation of any limits to the ability of the facility or
26 home to which the patient is to be released to provide
27 recommended medical care, including whether the facility or
28 home has appropriate equipment and personnel trained to provide
29 medical care for symptoms related to an anticipated deterioration
30 in the patient's condition.

31 (G) Alternative treatments and services that can be medically
32 recommended that are available to treat pain and discomfort
33 associated with the patient's critical or terminal conditions and
34 anticipated symptoms. These alternatives shall be disclosed,
35 whether or not they are available at the facility or home to which
36 the patient is released and whether or not they are covered under
37 the patient's medical insurance or health care service plan.

38 (b) A general acute care hospital shall adopt a protocol for the
39 preparation of the patient care plan and the explanation of the plan

1 to the patient and, *as designated by the patient*, to the patient's
2 family, as required by this section.

3 (c) No health facility shall accept the transfer from a general
4 acute care hospital of a critically or terminally ill patient for whom
5 the facility is ill-equipped to provide appropriate medical care.

6 (d) The department shall require regular utilization reviews of
7 discharge criteria to assure that patients described in this section
8 are moved to a facility or home with the capacity to provide the
9 appropriate level of care to reduce the necessity of frequent
10 emergency visits to the hospital to alleviate life-threatening
11 conditions that could be prevented by appropriate and regular
12 medical care and preventive measures.

13 (e) For purposes of this section, ~~“terminally ill”~~ “*terminally ill*”
14 means a medical condition that has a probability of causing death
15 within one year according to the patient's physician or surgeon at
16 the general acute care hospital.

17 (f) No contract between a general acute care hospital and a
18 health care service plan that is issued, amended, renewed, or
19 delivered on and after January 1, 2002, shall contain a provision
20 that prohibits or restricts any health care facilities' compliance
21 with the requirements of this section.

22 SEC. 2. Section 1367.5 is added to the Health and Safety
23 Code, to read:

24 1367.5. No health care service plan contract that is issued,
25 amended, renewed, or delivered on and after January 1, 2002, shall
26 contain a provision that prohibits or restricts any health facilities'
27 compliance with the requirements of Section 1262.5.

28 SEC. 3. Section 10117.5 is added to the Insurance Code, to
29 read:

30 10117.5. No disability insurer contract that covers hospital,
31 medical, or surgical benefits that is issued, amended, renewed, or
32 delivered on and after January 1, 2002, shall contain a provision
33 that prohibits or restricts any health facilities' compliance with the
34 requirements of Section 1262.5 of the Health and Safety Code.

35 SEC. 4. Section 10233.25 is added to the Insurance Code,
36 immediately following Section 10233.2, to read:

37 10233.25. No long-term care policy or certificate that is
38 issued, amended, renewed, or delivered on and after January 1,
39 2002, shall contain a provision that prohibits or restricts any health

1 facilities' compliance with the requirements of Section 1262.5 of
2 the Health and Safety Code.

3 SEC. 5. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

